

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lionel CASSIN *et al.*
Appln. No.: 09/912,408
Filed: July 26, 2001



Confirmation No.: 4274
Art Unit: 2623
Examiner: Hai V. Tran
Atty. Docket: 15235.007

For: Devices, Methods, And a System for Implementing a Media Content Delivery and Playback Scheme

Response to Restriction Requirement

Mail Stop Amendment
Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed June 1, 2006, Applicants submit the following.

The application presently contains claims 1-150. In the Office Action dated June 1, 2006, the Examiner required Applicants to elect under 35 U.S.C. § 121 one of the alleged “patentably distinct species, as illustrated in Fig. 1-10.” Office Action at page 1.

The Office requires Applicants to “elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.” *Id.* Applicants respectfully traverse the election requirement and provisionally elect the subject matter of Figure 1 as identified by the Examiner, including claims 143-150 for further prosecution. However, Applicants submit that the Patent Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending subject matter as a single entity. As MPEP § 803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it

includes claims to independent or distinct inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

No serious burden is created for the Examiner by running a simultaneous computerized search of the subject matter identified, for example, in Figs. 1 and 2. A single search of the subject matter of Fig. 1, for example, would automatically yield results of the subject matter of Fig. 2 without any undue burden on the Examiner.

Applicants submit that restriction to the subject matter of a single figure is improper and Applicants believe no serious burden would result by the search and examination of all of the subject matter contained in the claims. Applicants disagree that each of Figures 1-10 in the application is necessarily a patentably distinct species, but provisionally elect the species represented by Figure 1 for further prosecution including the group of claims of 143-150.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants’ undersigned representative at (202) 942-5085.

Respectfully submitted,



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